

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 92-0979

**Withholding Tax
Calendar Years 1989, 1990, and 1991**

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ISSUE(S)

I. Tax Administration – Application of Payment

Authority: IC 6-8.1-8-1.5

Taxpayer protests the application of check number 1767 to the January 1989 account.

STATEMENT OF FACTS

Taxpayer is an Indiana corporation incorporated on March 23, 1987. Taxpayer was audited and upon request, two locations were consolidated into one audit report. A supplemental audit was completed on June 21, 1993 and withdrawn from the protest procedure on August 17, 1993.

According to a letter dated June 30, 1993 from the taxpayer, the supplemental audit dated June 21, 1993 is in agreement. On August 17, 1993 the taxpayer paid \$522.55 to close the audit. The composition of the payment is as follows and agrees with the supplemental audit.

<u>Year</u>	<u>Tax due</u>	<u>P & I</u>	<u>Total</u>
1989	(\$283.16)	(\$ 89.55)	(\$372.71)
1990	<u>679.25</u>	<u>216.01</u>	<u>895.26</u>
Totals	\$396.09	\$126.46	\$522.55

Taxpayer, in a letter dated June 12, 1996, nearly three years after closure, reprotected the withholding tax audit. Another review of the audit indicates the liabilities are paid and the file has been closed for nearly three years. Taxpayer was advised in a letter dated September 18, 1996 that an adjustment was made in the amount of \$410.20 in 1989 leaving a balance due of \$396.09 for the audit, which was paid

on August 27, 1993.

The taxpayer believes check number 1767 in the amount of \$669.97 dated May 12, 1993 was applied to 1988 and should have been applied to 1989. The payment summary shows this amount to be applied to January 1989 and processed on March 16, 1989 and is included in the total for location no. 2.

During the course of the audit in 1992, taxpayer requested the auditor to review the payment accounts as she felt there was an overpayment of penalty and interest. The auditor determined that the taxpayer had late payments and the penalties and interest were proper.

A letter dated June 30, 1993 from the taxpayer to the auditor agreed with the total tax due of \$396.09 as shown on the supplemental audit report dated June 21, 1993.

ISSUE

I. Withholding Tax – Application of Payment

DISCUSSION

At issue is whether taxpayer's payment was applied correctly. In reviewing taxpayer's WH-3's, the audit and corresponding tax payments, it is noted that tax due is \$20,906.01 for 1989 and \$26,459.24 for 1990. Payments received for 1989 amounted to \$22,318.38 less a refund of \$1,539.41. Because the department could not verify a refund of \$410.20, it deducted this amount from the balance due; i.e. tax of \$127.04 in 1989 less \$410.20 leaving a credit balance of \$283.16 plus interest of \$89.55 which was applied to the 1990 liability. The result was an assessment of \$396.09 plus penalty and interest. This amount was paid on August 27, 1993, which is in agreement with the taxpayer's letter dated June 30, 1993.

Taxpayer has not provided proof that the assessment and payment are in error.

FINDING

Taxpayer's protest is denied.